

## FORM FOR USE IN APPLICATIONS

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FOR HABEAS CORPUS UNDER 28 U.S.C. §2254

2009 MAR 18 A 9:39

MICHAEL LOUIS COLEMAN

Name

DEBRA HACKETT  
U.S. DISTRICT COURT  
MIDDLE DISTRICT214910

Prison Number

VENTRESS CORRECTIONAL FACILITYP.O. BOX 767 CLAYTON, ALABAMA 36016

Place of Confinement

United States District Court FOR THE MIDDLE District of ALABAMACase No. 1:09 CV 218 - TMH

(To be supplied by Clerk of U. S. District Court)

MICHAEL LOUIS COLEMAN #214910

, PETITIONER

(Full name) (Include name under which you were convicted)

J.C. GILES, WARDEN, et al.,

, RESPONDENT

(Name of Warden, Superintendent, Jailor, or authorized person  
having custody of Petitioner)

and

THE ATTORNEY GENERAL OF THE STATE OF ALABAMA, HONORABLE TROY KING ATTORNEY GENERALASSISTANT ATTORNEY GENERAL, HONORABLE STEPHEN N. DODD, ADDITIONAL RESPONDENT

(if petitioner is attacking a judgment which imposed a sentence to be served in the future, petitioner must fill in the name of the state where the judgment was entered. If petitioner has a sentence to be served in the future under a federal judgment which he wishes to attack, he should file a motion under 28 U.S.C. §2255, in the federal court which entered the judgment.)

PETITION FOR WRIT OF HABEAS CORPUS BY A PERSON IN  
STATE CUSTODY

## INSTRUCTIONS--READ CAREFULLY

- (1) This petition must be legibly handwritten or typewritten and signed by the petitioner under penalty of perjury. Any false statement of a material fact may serve as the basis for prosecution and conviction for perjury. All questions must be answered concisely in the proper space on the form.

The Judicial Conference of the United States has adopted, effective 1/1/83, the 8-1/2 x 11 inch paper size standard for use throughout the federal judiciary and directed the elimination of the use of legal size paper. All

- (2) Additional pages are not permitted except with respect to the facts which you rely upon to support your grounds for relief. No citation of authorities need be furnished. If briefs or arguments are submitted, they should be submitted in the form of a separate memorandum.
- (3) Upon receipt of a fee of \$5 your petition will be filed if it is in proper order.
- (4) If you do not have the necessary filing fee, you may request permission to proceed in forma pauperis, in which event you must execute the declaration on the last page, setting forth information establishing your inability to prepay the fees and costs or give security therefor. If you wish to proceed in forma pauperis, you must have an authorized officer at the penal institution complete the certificate as to the amount of money and securities on deposit to your credit in any account in the institution.
- (5) Only judgments entered by one court may be challenged in a single petition. If you seek to challenge judgments entered by different courts either in the same state or in different states, you must file separate petitions as to each court.
- (6) Your attention is directed to the fact that you must include all grounds for relief and all facts supporting such grounds for relief in the petition you file seeking relief from any judgment of conviction.
- (7) When the petition is fully completed, the original and two copies<sup>\*</sup> must be mailed to the Clerk of the United States District Court whose address is  
P. O. Box 711, Montgomery, Alabama 36101
- (8) Petitions which do not conform to these instructions will be returned with a notation as to the deficiency.

<sup>\*</sup>If you are proceeding in forma pauperis, only the original petition needs to be filed with the Court.

PETITION

1. Name and location of court which entered the judgment of conviction under attack THE CIRCUIT COURT OF HOUSTON COUNTY , ALABAMA (DOTHAN , ALABAMA)
2. Date of judgment of conviction DECEMBER 15, 2000
3. Length of sentence FIFTEEN YEARS Sentencing Judge S.EDWARD JACKSON
4. Nature of offense or offenses for which you were convicted: ROBBERY IN THE FIRST DEGREE
5. What was your plea? (check one)  
(a) Not guilty ( )  
(b) Guilty (X)  
(c) Nolo contendere ( )  
If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or indictment, give details: \_\_\_\_\_

6. Kind of trial: (Check one)  
(a) Jury ( )  
(b) Judge only ( X )
7. Did you testify at the trial? Yes ( ) No ( X )
8. Did you appeal from the judgment of conviction? Yes ( X ) No ( )
9. If you did appeal, answer the following:  
(a) Name of court COURT OF CRIMINAL APPEALS STATE OF ALABAMA  
(b) Result AFFIRMED  
(c) Date of result JUNE 22, 2001  
If you filed a second appeal or filed a petition for certiorari in the Supreme Court, give details: WRIT OF CERTIORARI DENIED NOVEMBER 16, 2001  
1001952 Ex parte COLEMAN 839 So.2d 609
10. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications, or motions with respect to this judgment in any court, state or federal? Yes ( X ) No ( )
11. If your answer to 10 was "yes", give the following information:  
(a)(1) Name of court CIRCUIT COURT OF HOUSTON COUNTY  
(2) Nature of proceeding RULE 32 PETITION FOR POST-CONVICTION RELIEF  
(3) Grounds raised TRIAL COURT WAS WITHOUT JURISDICTION TO RENDER JUDGMENT OR TO IMPOSE SENTENCE IN THAT THE COURT IMPOSED A SENTENCE WHICH WAS ILLEGAL AND WAS BELOW THE STATUTORY MINIMUM RANGE  
(4) Did you receive an evidentiary hearing on your petition, application or motion? Yes ( ) No ( X )  
(5) Result DISMISSED FOR FAILING TO STATE A CLAIM , AND AMENDED SENTENCE  
(6) Date of result SEPTEMBER 24, 2007 FROM 15 YRS. TO 20 YRS.  
(b) As to any second petition, application or motion give the same information:  
(1) Name of court COURT OF CRIMINAL APPEALS STATE OF ALABAMA  
(2) Nature of proceeding APPEALED THE CIRCUIT COURT OF HOUSTON COUNTY , DISMISSING POST-CONVICTION AND AMENDING SENTENCE FROM 15 YRS. TO 20 YRS.  
(3) Grounds raised TRIAL COURT WAS WITHOUT JURISDICTION TO IMPOSE A SENTENCE THAT FELL BELOW THE MINIMUM SENTENCE REQUIRED UPON CONVICTION OF A CLASS A FELONY THAT INVOLVED THE USE OR ATTEMPTED USE OF A WEAPON. THE TRIAL COURT ACCEPTED A GUILTY PLEA TO AN ILLEGAL SENTENCE THAT WAS NOT PROVIDED BY ALABAMA STATUTE. TRIAL COURT NOT HOLDING AN EVIDENTIARY HEARING AND NOT ALLOWING THE PETITIONER PERSONAL PRESENCE IN COURT AND NOT HAVING COUNSEL TO PROTECT PETITIONER RIGHTS.  
(4) Did you receive an evidentiary hearing on your petition, application or motion? Yes ( X ) No ( )  
(5) Result APPEAL DISMISSED , COURT OF APPEALS DID NOT ADDRESS JURISDICTIONAL.  
(6) Date of result OCTOBER 17, 2008

(c) As to any third petition, application or motion, give the same information:

(1) Name of Court ALABAMA SUPREME COURT

(2) Nature of proceeding WRIT OF CERTIORARI

(3) Grounds raised COURT OF CRIMINAL APPEALS NOT ADDRESSING THE JURISDICTIONAL ISSUE AND THE PETITIONER BE RESENTENCED TO A MORE ONEROUS SENTENCE. PETITIONER PLEADING GUILTY TO AN ILLEGAL SENTENCE WHICH VIOLATED THE PETITIONER DUE PROCESS FOR NOT BE INFORMED OF THE CORRECT MINIMUM SENTENCE THAT COULD BE IMPOSED IF THE PETITIONER PLEAD GUILTY TO THE CHARGE OF ROBBERY IN THE FIRST DEGREE THAT INVOLVED A WEAPON, PETITIONER CONVICTION WAS BASED ON THE VIOLATION OF DUE PROCESS

(4) Did you receive an evidentiary hearing on your petition, application or motion? Yes ( ) No (X)

(5) Result WRIT DENIED, DID NOT ADDRESS IF PETITIONER DUE PROCESS WAS VIOLATED

(6) Date of result MARCH 6, 2009

(d) Did you appeal to the highest state court having jurisdiction the result of any action taken on any petition, application or motion:

(1) First petition, etc. Yes (X) No ( )

(2) Second petition, etc. Yes (X) No ( )

(3) Third petition, etc. Yes (X) No ( )

(e) If you did not appeal from the adverse action on any petition, application or motion, explain briefly why you did not: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

12. State concisely every ground on which you claim that you are being held unlawfully. Summarize briefly the facts supporting each ground.

CAUTION: In order to proceed in the federal court, you must ordinarily first exhaust your state court remedies as to each ground on which you request action by the federal court. As to all grounds on which you have previously exhausted state court remedies, you should set them forth in this petition if you wish to seek federal relief. If you fail to set forth all such grounds in this petition, you may be barred from presenting them at a later date.

For your information, the following is a list of the most frequently raised grounds for relief in habeas corpus proceedings. Each statement preceded by a letter constitutes a separate ground for possible relief. You may raise any grounds which you may have other than those listed if you have exhausted all your state court remedies with respect to them. However, you should raise in this petition all available grounds (relating to this conviction) on which you base your allegations that you are being held in custody unlawfully.

If you select one or more of these grounds for relief, you must allege facts in support of the ground or grounds which you choose. Do not check any of the grounds listed below. The petition will be returned to you if you merely check (a) through (j) or any one of these grounds.

- (a) Conviction obtained by plea of guilty which was unlawfully induced or not made voluntarily with understanding of the nature of the charge and the consequences of the plea.
- (b) Conviction obtained by use of coerced confession.
- (c) Conviction obtained by use of evidence gained pursuant to an unconstitutional search and seizure, [where the state has not provided a full and fair hearing on the merits of the Fourth Amendment claim].
- (d) Conviction obtained by use of evidence obtained pursuant to an unlawful arrest, [where the state has not provided a full and fair hearing on the merits of the Fourth Amendment claim].
- (e) Conviction obtained by a violation of the privilege against self-incrimination.
- (f) Conviction obtained by the unconstitutional failure of the prosecution to disclose to the defendant evidence favorable to the defendant.
- (g) Conviction obtained by a violation of the protection against double jeopardy.
- (h) Conviction obtained by action of a grand or petit jury which was unconstitutionally selected and impaneled.
- (i) Denial of effective assistance of counsel.
- (j) Denial of right of appeal.

- A. Ground one: CONVICTION OBTAINED BY PLEA OF GUILTY WHICH WAS UNLAWFULLY INDUCED OR NOT MADE VOLUNTARILY WITH UNDERSTANDING OF THE CONSEQUENCES OF THE PLEA  
Supporting FACTS (tell your story briefly without citing cases or law): PETITIONER PLEAD GUILTY TO THE OFFENSE OF ROBBERY IN THE FIRST DEGREE WITHOUT KNOWING THE MINIMUM SENTENCE THAT COULD BE IMPOSED UPON PLEADING GUILTY TO ROBBERY IN THE FIRST DEGREE. THE TRIAL COURT NEVER INFORM THE PETITIONER OF THE CORRECT MINIMUM SENTENCE THAT HE WAS FACING. THE COURT OF CRIMINAL APPEALS DID NOT ADDRESS PETITIONER PLEADING GUILTY TO AN ILLEGAL SENTENCE THAT FELL BELOW THE MINIMUM SENTENCE TO BE IMPOSED UPON BEING CONVICTED OF ROBBERY IN THE FIRST DEGREE. PETITIONER DUE PROCESS WAS VIOLATED BY NOT BEING INFORMED OF THE CORRECT MINIMUM AND MAXIMUM SENTENCE TO BE IMPOSED UPON CONVICTION OF THE CHARGE OF ROBBERY IN THE FIRST DEGREE. PETITIONER WAS NOT ALLOWED TO WITHDRAW HIS GUILTY PLEA AND PROCEED TO TRIAL. THIS CONVICTION IS DUE TO BE VACATED AND THE PETITIONER CONVICTION VOID. PETITIONER CONVICTION WAS DUE TO THE TRIAL COURT VIOLATING THE PETITIONER'S DUE PROCESS.
- B. Ground two: ACTUAL INNOCENCE OF THE CRIME HE IS INCARCERATED FOR AND COUNSEL WITHHELD THAT CO-DEFENDANTS TESTIFIED PETITIONER WAS INNOCENCE.  
Supporting FACTS (tell your story briefly without citing cases or law): PETITIONER WAS NOT INVOLVED IN THE CRIME, PETITIONER WAS PICKED UP AFTER WHAT EVER CRIME TOOK PLACE. PETITIONER WANTED TO GO TO TRIAL, TRIAL COUNSEL DID NOT TELL PETITIONER THAT HIS CO-DEFENDANTS TESTIFIED AT TRIAL THAT PETITIONER HAD NOTHING TO DO WITH THE ROBBERY. HAD PETITIONER KNEW THAT PETITIONER WOULD HAVE INSISTED ON GOING TO TRIAL HAD PETITIONER KNOWN THIS. PETITIONER HAD SAID HE HAD NOTHING TO DO WITH THE CRIME FROM THE BEGINNING WHEN ASKED ABOUT THE CRIME AND NEVER CHANGED THAT EVEN AT THE PLEAING STAGE IN COURT, PETITIONER DID NOT GIVE ANY DETAIL ABOUT THE CRIME AT THE PLEAING STAGE. PETITIONER ONLY DID WHAT THE TRIAL COUNSEL HAD ADVISED THE PETITIONER TO DO. PETITIONER IS INNOCENCE OF THE CRIME HE IS INCARCERATED FOR AND HAD NO PART IN THE CRIME. PETITIONER HAS TRIED TO ATTACK THE VOLUNTARINESS OF HIS GUILTY PLEA ONLY TO HAVE HIS TIME INCREASED FROM (15) YEARS TO (20) YEARS, PETITIONER CONVICTION IS ILLEGAL.

C. Ground three: \_\_\_\_\_

Supporting FACTS (tell your story briefly without citing cases or law): \_\_\_\_\_

D. Ground four: \_\_\_\_\_

Supporting FACTS (tell your story briefly without citing cases of law): \_\_\_\_\_

13. If any of the grounds listed in 12A, B, C, and D were not previously presented in any other court, state or federal state briefly what grounds were not so presented, and give your reasons for not presenting them: \_\_\_\_\_

14. Do you have any petition or appeal now pending in any court, either state or federal, as to the judgment under attack? Yes ( ) No (X)

15. Give the name and address, if known, of each attorney who represented you in the following stages of the judgment attacked herein:

(a) At preliminary hearing BRENT H. GOURLEY

128 SOUTH OATES STREET DOTHAN, ALABAMA 36301

(b) At arraignment and plea SAME

- (c) At trial \_\_\_\_\_
- (d) At sentencing WILLIAM C. MADDOX ATTORNEY AT LAW  
P.O. BOX 738 DOTHAN, ALABAMA 36302
- (e) On appeal YVONNE GABRIELSON ATTORNEY AT LAW  
WEST MAIN STREET DOTHAN, ALABAMA 36301
- (f) In any post-conviction proceeding (PRO-SE)  
MICHAEL LOUIS COLEMAN A.I.S.# (214910)
- (g) On appeal from any adverse ruling in a post-conviction proceeding: \_\_\_\_\_  
(PRO-SE) MICHAEL LOUIS COLEMAN A.I.S.#(214910)

16. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and at the same time?  
Yes ( ) No ( X )

17. Do you have any future sentence to serve after you complete the sentence imposed by the judgment under attack?  
Yes ( ) No ( X )

(a) If so, give name and location of court which imposed sentence to be served in the future: \_\_\_\_\_

(b) And give date and length of sentence to be served in the future: \_\_\_\_\_

(c) Have you filed, or do you contemplate filing, any petition attacking the judgment which imposed the sentence to be served in the future?  
Yes ( ) No ( X )

Wherefore, petitioner prays that the Court grant petitioner relief to which he may be entitled in this proceeding.

\_\_\_\_\_  
Signature of Attorney (if any)

I declare ( or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on \_\_\_\_\_  
(date)

Michael Louis Coleman #214910  
Signature of Petitioner

Montgomery Correctional Facility  
P.O. Box 767  
Clayton, Alabama 36016-0767

Montgomery P&DC 360  
TUE 17 MAR 2009 PM



Legal  
Mail

THIS CORRESPONDENCE IS FORWARDED  
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CONTENTS HAVE NOT BEEN EVALUATED  
AND THE ALABAMA DEPARTMENT OF  
CORRECTIONS IS NOT RESPONSIBLE FOR  
THE SUBSTANCE OR CONTENT OF THE  
ENCLOSED COMMUNICATION

Office of the Clerk  
United States District Court of mid  
P.O. Box 711  
Montgomery, Alabama 36101-0711